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the wrongdoer has no money or is otherwise unavailable to satisfy the damage that he has caused," Sherlock wrote.

come up until after Grace filed for bankruptcy in 2001, effectively halting scores of lawsuits. "The state of Montana should not become the default defendant in every case where the

said, neither state law, the Montana Constitution nor common law required the state to warn the people of Libby that the mine waste could be hazardous. He also noted that the claims against the state did not

to workers and that the dust contained asbestos. When the letters were sent in the 1950s, all such reports were kept secret from the public and from mine workers. But, Sherlock

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Judge throws out asbestos claims

A state judge in Helena ruled Aug. 16 that Montana health officials had no legal obligation to warn residents of Libby about the dangers of tremolite asbestos from the W.R. Grace & Co. vermiculite mine and mill there.

District Judge Jeffrey Sherlock dismissed those claims from 23 lawsuits that had been combined. All of the cases involve people who were exposed to tremolite from the W.R. Grace mine, which has been connected to at least 88 deaths. Another 2,000 people with connections to Libby have lung irregularities caused by exposure to tremolite asbestos, a type of fiber known by health experts to be very lethal.

All the legal cases alleged that the state was negligent for not warning of the hazards of exposure to asbestos and not protecting workers and Libby residents from the asbestos fibers that health officials knew were a byproduct of the mining operation.

Great Falls attorney Thomas Baiz, who represents more than half of the 200-plus plaintiffs, said he expects Sherlock's ruling to be appealed to the Montana Supreme Court.

In his ruling, Sherlock dismissed all charges that the state violated the law by not doing more to protect mine workers, their families and others exposed to the mine waste. He did not rule on claims by some of the plaintiffs that the state "aided and abetted" Grace by failing to enforce warnings from the state Board of Health that dust at the mine and mill contained dangerous levels of asbestos and by not providing protections for workers and their families.

Court documents from these and hundreds of other cases filed against W.R. Grace include letters from the former state Board of Health, now the Board of Environmental Review, to mine operators warning that dusty conditions at the mine and mill were dangerous.